

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TERRENCE THOMAS,

Plaintiff,

v.

BARNSTABLE COUNTY CORRECTIONAL
FACILITY,

Defendant.

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Civil Action No. 21-10398-ADB

ORDER

BURROUGHS, D.J.

Terrence Thomas, a pretrial detainee confined at the Barnstable County Correctional Facility, has filed a civil complaint in which he claims that certain conditions of confinement at the Barnstable County Correctional Facility violate his federal rights. [ECF No. 1]. He also filed motions for leave to proceed *in forma pauperis* (with the appropriate institutional account statement) and for appointment of counsel [ECF Nos. 2, 6]. These motions are pending.

On March 7, 2021, Thomas filed a letter [ECF No. 9] which was docketed in this action and the other three cases Thomas filed in this Court in March 2021. *See* C.A. Nos. 21-10394, 21-10395, and 21-10399. In this letter, he asks three questions: (1) whether his “being incarcerated and current fighting charges affect his [civil] action”; (2) whether he should “withdraw the civil actions until [his] state court case is resolved”; and (3) whether he could sue “the police, the DA, and the jail.” Regarding the third question, Thomas states that he does not “want to get 3 dismissals cause [he is] still fighting state court charges.” [ECF No. 9].

Regarding the first question, the Court can state that, as a general matter, a pretrial detainee’s claims in this Court concerning conditions of confinement (rather than the fact of

confinement, or claims concerning a pending criminal prosecution) are adjudicated without consideration of arguments that the plaintiff may be asserting in a criminal prosecution against him. The Court cannot respond to the second or third questions because it would constitute giving plaintiff legal advice, which the Court is not able to do.

In light of Thomas's letter, the Court will refrain from adjudicating his motion for leave to proceed *in forma pauperis* for the next 35 days. If, during that time, Thomas indicates to the Court that he no longer intends to prosecute this action at this time, the Court will consider the action to be voluntarily dismissed, deem the motion for leave to proceed *in forma pauperis* to be moot, and not assess a filing fee. If Thomas does not so inform the Court within 35 days, the Court will proceed to adjudicate the motion for leave to proceed *in forma pauperis*. If the Court grants the motion for leave to proceed *in forma pauperis*, Thomas will be required to pay the \$350 filing fee over time regardless of the outcome of the case (including dismissal under 28 U.S.C. §§ 1915(e)(2) or 1915A, or Thomas's subsequent voluntary dismissal of the action). *See* 28 U.S.C. § 1915(b).

IT IS SO ORDERED.

4/21/2021
DATE

/s/ Allison D. Burroughs
UNITED STATES DISTRICT JUDGE